

REMARKS

The final Office Action mailed March 8, 2007 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1, 3-5, 7-12, 14, 15, 17-19, 21-26, 28-30, 32-37, 39-41, 43-45, 47-51, 53-55, and 57-60 are now pending in this application. Claims 1-5, 7-12, 14-19, 21-30, 32-37, 39-55, and 57-60 stand rejected. By the above amendment, Claims 2, 16, 27, 42, and 52 have been canceled.

The rejection of Claims 1-5, 7-12, 14-19, 21-30, 32-37, 39-55, and 57-60 under 35 U.S.C. § 103(a) as being unpatentable over PCT International Application Pub. No. WO 01/13261 to Juedes et al. (hereinafter referred to as "Juedes") in view of U.S. Patent No. 5,963,915 to Kirsch (hereinafter referred to as "Kirsch"), U.S. Patent No. 6,876,977 to Marks (hereinafter referred to as "Marks"), and U.S. Patent No. 7,082,408 to Baumann et al. (hereinafter referred to as "Baumann") is respectfully traversed.

Juedes describes a system (100) for fulfilling orders placed by a customer (104) from the provider (106) of a product over the Internet (102). Once the customer has placed an order, the provider sends the order information to an e-commerce hub (112) which arranges for the product's transportation and delivery. The e-commerce hub software automatically selects, based on the order information and predetermined stored criteria, which of a plurality of predetermined carriers should be used to transport the product from the provider to the customer. A request for shipping the product is then sent from the e-commerce hub to the selected carrier. If the request for shipping is accepted by the carrier, a notification of shipment is sent from the e-commerce hub to either the provider or the customer, or both. Juedes also describes an order timeline feasibility study module of the e-commerce hub that determines whether the transportation of and delivery of the product to the customer from the provider is possible within the time period defined by the pickup date and the delivery date. If the transportation and delivery are found to be infeasible, the order for shipment is rejected by the e-commerce hub. Juedes does not describe or suggest, however, a use case in which an authorized user makes an order change that affects the delivery date. Notably, Juedes does

not describe or suggest calculating a potential first arrival date of an order to a respective delivery agent's location using a server system and based on an order request date, a respective buyer's address, and a fixed delay. Further, Juedes does not describe or suggest automatically repeating the steps for determining the delivery date to determine a new delivery date if an order change is allowed.

Kirsch describes an Internet computer system (10) including a conventional computer system (12) that runs a client browser and is connected to the Internet (14) through an Internet Service Provider (ISP). A server computer system (16), also connected to the Internet through an ISP and controlled by a local console (18), executes a Web Server application. The client and server computers are configured to allow a consumer to purchase items via a secure web page presented by the server. The consumer's client browser is provided with a cookie containing security information that is checked against the server record of the client. Additional levels of authentication and security may be added on the server and include usage of an optional PIN, restrictions on shipping destinations, and email confirmation of orders. These levels are also limited to a server process specific to the acceptance phase of the purchase process. Notably, Kirsch does not describe or suggest calculating a potential first arrival date of an order to a respective delivery agent's location using a server system and based on an order request date, a respective buyer's address, and a fixed delay. Further, Kirsch does not describe or suggest automatically repeating the steps for determining the delivery date to determine a new delivery date if an order change is allowed.

Marks describes a computer-implemented method for conducting business-to-business electronic commerce over the Internet, including providing a website that enables electronic communication with users using an electronic shopping basket and enabling two or more remote users to simultaneously access the shopping basket. Each user is permitted to simultaneously view the status of the shopping basket and sequentially affect the state of the shopping basket. The users' ability to affect the state of the basket includes providing the users with selected levels of access to the basket. Any change of state of the basket is automatically sent to all users by a display of the shopping basket on the website. Notably,

Marks does not describe or suggest calculating a potential first arrival date of an order to a respective delivery agent's location using a server system and based on an order request date, a respective buyer's address, and a fixed delay. Further, Marks does not describe or suggest automatically repeating the steps for determining the delivery date to determine a new delivery date if an order change is allowed.

Baumann describes a system and method for procuring commodities for use by employees, including associating the employee with a user profile relating to the employee's status, automatically generating a requisition for the employee, and enabling the employee to search catalogs for desired commodities based on the employee's profile. Notably, Baumann does not describe or suggest calculating a potential first arrival date of an order to a respective delivery agent's location using a server system and based on an order request date, a respective buyer's address, and a fixed delay. Further, Baumann does not describe or suggest automatically repeating the steps for determining the delivery date to determine a new delivery date if an order change is allowed.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. None of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests the claimed combination. Further, in contrast to the Examiner's assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Juedes, Kirsch, Marks, and Baumann because there is no motivation to combine the references suggested in the art. Additionally, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicants' own teaching. Rather, only conclusory statements that it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes as taught by Kirsch, Marks, and Baumann suggests combining the disclosures. Applicants traverse these assertions. Applicants respectfully submit that it would not have been obvious to one having ordinary skill in the art to modify or combine Juedes, which describes a system

for arranging a plurality of carrier partners to deliver a product within a certain timeline, with the other references. Marks merely describes a method that provides varying levels of access to an online shopping basket, Kirsch merely describes a method for the use of browser cookies to ensure client credentials in later e-commerce transactions, and Baumann merely describes a method of limiting a user's ability to search product catalogs based on a user profile.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, some suggestion to combine such references and a reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 USPQ2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the prior art disclosures, or any reasonable expectation of success has been shown.

Further, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. It is also impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected in an attempt to arrive at the claimed invention. Since there is no teaching or suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection be withdrawn.

Moreover, and to the extent understood, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests the claimed invention.

Specifically, Claim 1 recites a method of managing a delivery schedule of an order using a system configured with a server which includes a goods delivery system, the system including at least one computing unit networked to the server, the order being delivered from at least one supplier to a respective delivery agent, and from the respective delivery agent to a respective buyer, and wherein the order comprises order information, wherein the method comprises the steps of “(1) calculating a first potential arrival date of the order to a respective delivery agent’s location using the server system based on an order request date, and a respective buyer’s address, and a fixed delay; . . . and (5) allowing an order change that affects the delivery date of the order to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least one supplier, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) a type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, the at least one supplier, the store, or the logistics intermediary, (c) a level of the user, and (d) a security code, wherein, upon allowance of the order change, steps (1), (2), (3) and (4) are repeated to determine a new delivery date.”

None of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests a method of managing a delivery schedule, as is recited in Claim 1. More specifically, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests calculating a potential first arrival date of an order to a respective delivery agent’s location using a server system based on an order request date, a respective buyer’s address, and a fixed delay, as required by Applicants’ invention. Further, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests a method that automatically repeats the steps for determining the delivery date to determine a new delivery date if an order change is allowed. Rather, in contrast to the present invention, Juedes describes a delivery system wherein, if a carrier is unable to perform within a specified time period, a time feasibility module is run again to verify that a pickup or dropoff will be made within a certain number of days, such as a delivery window prescribed by law with regards to purchases made by credit cards. However, the time feasibility module described by Juedes does not describe or suggest determining whether the

delivery is possible with respect to an order request date. Moreover, Juedes does not describe the use of a fixed delay in calculating the first potential arrival date of the order to a respective delivery agent's location. Further, Kirsch, Marks, and/or Baumann do not overcome the deficiencies of Juedes. Kirsch merely describes using an option PIN or browser cookie to verify the client user's identity in later transactions, Marks merely describes providing users with various levels of access to a shopping basket, and Baumann merely describes allowing users to search catalogs based on a status-based user profile.

Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Juedes in view of Kirsch, Marks, and Baumann.

Claim 2 has been canceled. Claims 3-5, 7-12, and 14 depend from independent Claim 1. When the recitations of Claims 3-5, 7-12, and 14 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 3-5, 7-12, and 14 likewise are patentable over Juedes in view of Kirsch, Marks, and Baumann.

Claim 15 recites a method of managing a delivery schedule of an order using a system configured with a server which includes a goods delivery system, the system including at least one computing unit networked to the server, the order being delivered from at least one supplier to a respective delivery agent, and from the respective delivery agent to a respective buyer, wherein the order comprises order information. The method comprises "(1) calculating a first potential arrival date of the order to a respective delivery agent's location using the server system based on an order request date, and a respective buyer's address, and a fixed delay; . . . and (5) allowing an order change that affects the actual delivery date of the order to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least one supplier, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) a type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, the at least one supplier, the store, or the logistics intermediary, (c) a level of the user, and (d) a security code, wherein, upon allowance of the order change, steps (1), (2), (3) and (4) are repeated to determine a new actual delivery date."

None of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests a method of managing a delivery schedule, as recited in Claim 15. More specifically, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests calculating a first potential arrival date of the order to a respective delivery agent's location using the server system based on an order request date, a respective buyer's address, and a fixed delay, as required by Applicants' invention. Further, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests a method that automatically repeats the steps for determining the delivery date to determine a new delivery date if an order change is allowed. Rather, in contrast to the present invention, Juedes describes a delivery system wherein, if a carrier is unable to perform within a specified time period, a time feasibility module is run again to verify that a pickup or dropoff will be made within a certain number of days, such as a delivery window prescribed by law with regards to purchases made by credit cards. However, the time feasibility module described by Juedes does not describe or suggest determining whether the delivery is possible with respect to an order request date. Moreover, Juedes does not describe the use of a fixed delay in calculating the first potential arrival date of the order to a respective delivery agent's location. Further, Kirsch, Marks, and/or Baumann do not overcome the deficiencies of Juedes. Kirsch merely describes using an option PIN or browser cookie to verify the client user's identity in later transactions, Marks merely describes providing users with various levels of access to a shopping basket, and Baumann merely describes allowing users to search catalogs based on a status-based user profile.

Accordingly, for at least the reasons set forth above, Claim 15 is submitted to be patentable over Juedes in view of Kirsch, Marks, and Baumann.

Claim 16 has been canceled. Claims 17-19 and 21-25 depend from independent Claim 15. When the recitations of Claims 17-19 and 21-25 are considered in combination with the recitations of Claim 15, Applicants submit that dependent Claims 17-19 and 21-25 likewise are patentable over Juedes in view of Kirsch, Marks, and Baumann.

Claim 26 recites a computer program storage medium readable by a computer system and encoding a computer program of instructions for executing a computer process for managing deliveries of a goods delivery system, the system employed to deliver an order from at least one supplier to a respective delivery agent, and from the respective delivery agent to a respective buyer, given order information. The computer process comprises “(1) determining a first potential arrival date of the order to a respective delivery agent’s location, based on an order request date, a respective buyer’s address, and a fixed delay; . . . and (5) allowing an order change that affects the delivery date of the order to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least one supplier, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) a type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, the at least one supplier, the store, or the logistics intermediary, (c) a level of the user, and (d) a security code, wherein, upon allowance of the order change, steps (1), (2), (3) and (4) are repeated to determine a new delivery date.”

None of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests a computer program storage medium, as recited in Claim 26. More specifically, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests determining a first potential arrival date of the order to a respective delivery agent’s location, based on an order request date, a respective buyer’s address, and a fixed delay, as required by Applicants’ invention. Further, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests automatically repeating the steps for determining the delivery date to determine a new delivery date if an order change is allowed. Rather, in contrast to the present invention, Juedes describes a delivery system wherein, if a carrier is unable to perform within a specified time period, a time feasibility module is run again to verify that a pickup or dropoff will be made within a certain number of days, such as a delivery window prescribed by law with regards to purchases made by credit cards. However, the time feasibility module described by Juedes does not describe or suggest determining whether the delivery is possible with respect to an order request date. Moreover, Juedes does not describe the use of a fixed

delay in calculating the first potential arrival date of the order to a respective delivery agent's location. Further, Kirsch, Marks, and/or Baumann do not overcome the deficiencies of Juedes. Kirsch merely describes using an option PIN or browser cookie to verify the client user's identity in later transactions, Marks merely describes providing users with various levels of access to a shopping basket, and Baumann merely describes allowing users to search catalogs based on a status-based user profile.

Accordingly, for at least the reasons set forth above, Claim 26 is submitted to be patentable over Juedes in view of Kirsch, Marks, and Baumann.

Claim 27 has been canceled. Claims 28-30, 32-37, and 39 depend from independent Claim 26. When the recitations of Claims 28-30, 32-37, and 39 are considered in combination with the recitations of Claim 26, Applicants submit that dependent Claims 28-30, 32-37, and 39 likewise are patentable over Juedes in view of Kirsch, Marks, and Baumann.

Claim 40 recites an apparatus for managing the delivery of an order from at least one supplier to a respective delivery agent, and from the respective delivery agent to a respective buyer, given order information. The apparatus comprises "means for determining a first potential arrival date of the order to a respective delivery agent's location, based on an order request date, and a respective buyer's address, and a fixed delay; . . . and means for allowing an order change that affects the delivery date of the order to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least one supplier, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) a type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, the at least one supplier, the store, or the logistics intermediary, (c) a level of the user, and (d) a security code, wherein, upon allowance of the order change, said apparatus determines a new delivery date and updates the electronic manifest."

None of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests an apparatus for managing a delivery, as recited in Claim 40. More

specifically, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests a means for determining a first potential arrival date of the order to a respective delivery agent's location, based on an order request date, a respective buyer's address, and a fixed delay, as required by Applicants' invention. Further, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests a means for automatically repeating the steps for determining the delivery date to determine a new delivery date if an order change is allowed. Rather, in contrast to the present invention, Juedes describes a delivery system wherein, if a carrier is unable to perform within a specified time period, a time feasibility module is run again to verify that a pickup or dropoff will be made within a certain number of days, such as a delivery window prescribed by law with regards to purchases made by credit cards. However, the time feasibility module described by Juedes does not describe or suggest determining whether the delivery is possible with respect to an order request date. Moreover, Juedes does not describe the use of a fixed delay in calculating the first potential arrival date of the order to a respective delivery agent's location. Further, Kirsch, Marks, and/or Baumann do not overcome the deficiencies of Juedes. Kirsch merely describes using an option PIN or browser cookie to verify the client user's identity in later transactions, Marks merely describes providing users with various levels of access to a shopping basket, and Baumann merely describes allowing users to search catalogs based on a status-based user profile.

Accordingly, for at least the reasons set forth above, Claim 40 is submitted to be patentable over Juedes in view of Kirsch, Marks, and Baumann.

Claim 41 recites a method of managing a delivery schedule of a multiple brand order using a system configured with a server which includes a goods delivery system, the system including at least one computing unit networked to the server, the multiple brand order being delivered from at least two suppliers to a respective delivery agent, and from the respective delivery agent to a respective buyer, wherein the multiple brand order comprises order information. The method comprises "(1) calculating a first potential arrival date of the multiple brand order to a respective delivery agent's location using the server system based on an order request date, a respective buyer's address, and a fixed delay; . . . and (5) allowing

an order change that affects the delivery date of the multiple brand order to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least two suppliers, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) a type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, one of the at least two suppliers, the store, or the logistics intermediary, (c) a level of the user, and (d) a security code, wherein, upon allowance of the order change, steps (1), (2); (3) and (4) are repeated to determine a new delivery date.”

None of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests a method of managing a delivery schedule of a multiple brand order, as recited in Claim 41. More specifically, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests calculating a first potential arrival date of the multiple brand order to a respective delivery agent’s location using the server system based on an order request date, a respective buyer’s address, and a fixed delay. Further, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests automatically repeating the steps for determining the delivery date to determine a new delivery date if an order change is allowed. Rather, in contrast to the present invention, Juedes describes a delivery system wherein, if a carrier is unable to perform within a specified time period, a time feasibility module is run again to verify that a pickup or dropoff will be made within a certain number of days, such as a delivery window prescribed by law with regards to purchases made by credit cards. However, the time feasibility module described by Juedes does not describe or suggest determining whether the delivery is possible with respect to an order request date. Moreover, Juedes does not describe the use of a fixed delay in calculating the first potential arrival date of the order to a respective delivery agent’s location. Further, Kirsch, Marks, and/or Baumann do not overcome the deficiencies of Juedes. Kirsch merely describes using an option PIN or browser cookie to verify the client user’s identity in later transactions, Marks merely describes providing users with various levels of access to a shopping basket, and Baumann merely describes allowing users to search catalogs based on a status-based user profile.

Accordingly, for at least the reasons set forth above, Claim 41 is submitted to be patentable over Juedes in view of Kirsch, Marks, and Baumann.

Claim 42 has been canceled. Claims 43-45 and 47-50 depend from independent Claim 41. When the recitations of Claims 43-45 and 47-50 are considered in combination with the recitations of Claim 41, Applicants submit that dependent Claims 43-45 and 47-50 likewise are patentable over Juedes in view of Kirsch, Marks, and Baumann.

Claim 51 recites a method of managing a delivery schedule of a multiple brand order using a system configured with a server which includes a goods delivery system, the system including at least one computing unit networked to the server, the order being delivered from at least two suppliers to a respective delivery agent, and from the respective delivery agent to a respective buyer, wherein the multiple brand order comprises order information. The method comprises “(1) calculating a first potential arrival date of the multiple brand order to a respective delivery agent’s location using the server system based on an order request date, and a respective buyer’s address, the day the multiple brand order is placed, and a fixed delay; . . . and (5) allowing an order change that affects the delivery date of the multiple brand order to be made by a user that is authorized by one of the respective delivery agent, the respective buyer, the at least two suppliers, a store, or a logistics intermediary, wherein allowance of the order change is based on: (a) a type of order change, (b) whether the user is acting as the respective delivery agent, the respective buyer, one of the at least two suppliers, the store, or the logistics intermediary, (c) a level of the user, and (d) a security code, wherein, upon allowance of the order change, steps (1), (2), (3) and (4) are repeated to determine a new delivery date.”

None of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests a method of managing a delivery schedule of a multiple brand order, as recited in Claim 51. More specifically, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests calculating a first potential arrival date of the multiple brand order to a respective delivery agent’s location using the server system based on an order request date, a respective buyer’s address, and a fixed delay.

Further, none of Juedes, Kirsch, Marks, and Baumann, considered alone or in combination, describes or suggests a method for repeating steps for determining the delivery date to determine a new delivery date if the order change is allowed. Rather, in contrast to the present invention, Juedes describes a delivery system wherein, if a carrier is unable to perform within a specified time period, a time feasibility module is run again to verify that a pickup or dropoff will be made within a certain number of days, such as a delivery window prescribed by law with regards to purchases made by credit cards. However, the time feasibility module described by Juedes does not describe or suggest determining whether the delivery is possible with respect to an order request date. Moreover, Juedes does not describe the use of a fixed delay in calculating the first potential arrival date of the order to a respective delivery agent's location. Further, Kirsch, Marks, and/or Baumann do not overcome the deficiencies of Juedes. Kirsch merely describes using an option PIN or browser cookie to verify the client user's identity in later transactions, Marks merely describes providing users with various levels of access to a shopping basket, and Baumann merely describes allowing users to search catalogs based on a status-based user profile.

Accordingly, for at least the reasons set forth above, Claim 51 is submitted to be patentable over Juedes in view of Kirsch, Marks, and Baumann.

Claim 52 has been canceled. Claims 53-55 and 57-60 depend from independent Claim 51. When the recitations of Claims 53-55 and 57-60 are considered in combination with the recitations of Claim 51, Applicants submit that dependent Claims 53-55 and 57-60 likewise are patentable over Juedes in view of Kirsch, Marks, and Baumann.

For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1, 3-5, 7-12, 14, 15, 17-19, 21-26, 28-30, 32-37, 39-41, 43-45, 47-51, 53-55, and 57-60 be withdrawn.

Express Mail No.: EV 918280362 US

PATENT
9D-EC-19335

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,



Eric T. Krischke
Registration No. 42,769
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070